287, 70 Atl. 185; *Zipp* v. *Barker*, 40 App. Div. 1, 57 N. Y. Supp. 569. And participation in violations which are so trivial that the purpose of the restrictions is not materially impaired will not bar a complainant's rights to an injunction against a serious violation. *Bacon* v. *Sandberg*, 179 Mass. 396, 60 N. E. 936; *McGuire* v. *Caskey*, 62 Oh. St. 419, 57 N. E. 53; *Adams* v. *Howell*, 58 Misc. 435, 108 N. Y. Supp. 945. The principal case is illustrative of such a situation. It might even be said that upon a proper interpretation of the restrictions, looking at the substance, no violation whatsoever was committed by the construction of the porches; and that therefore the complainant, not having participated in any violation, is clearly entitled to relief.

EQUITY — JURISDICTION — DISCRETION OF COURT IN GRANTING RELIEF. — A bill was brought by the stockholders of a corporation praying for the cancellation of a sale of corporation property made by the directors, for inadequacy of consideration. The District Court found the consideration inadequate, but ordered that the property be placed at public auction and, if no higher price than the consideration paid be offered, the sale stand confirmed. The sale was held and, no higher bid being received, the original transaction was confirmed. The stockholders appealed. *Held*, that the sale be vacated as prayed. *Geddes et al.* v. *Anaconda Mining Co. et al.*, U. S. Sup Ct., Oct. Term, 1920, No. 25.

The decree of the lower court is an example of the occasional attempts made by equity judges to improvise that relief which appeals to them as most equitable. See *Haswell* v. *Standring*, 152 Ia. 291, 132 N. W. 417. See 25 HARV. L. REV. 290. Circumstances may indeed be conceived where a decree like the one in the principal case would be proper. See *Roth* v. *Burnham*, 126 Ill. App. 222. But in substance the condition sought to be imposed by the District Court not only selects an unreliable standard of value but also denies to the plaintiff rights to which he is already declared entitled. While a court of equity should respect and safeguard the rights of the defendant, it should not go so far as to create new rights for him. See *Manternach* v. *Studt*, 240 Ill. 464, 88 N. E. 1000. In further criticism of the decree of the lower court, it may be pointed out that the decree should be responsive to the prayer of the bill, at least if the relief asked for can be given. *Stanwood* v. *Des Moines Savings Bank*, 178 Fed. 670 (Cir. Ct. App., 8th Circ.).

EVIDENCE — ADMISSIBILITY OF CRIMES BARRED BY STATUTE OF LIMITATIONS TO PROVE INTENT. — The defendant was indicted under a statute for willfully omitting to examine the books of the auditor of accounts for a period ending in 1916. To prove the defendant's intent, the prosecution introduced evidence of similar omissions between 1910 and 1914. The defendant objected to this evidence on the ground that punishment for these offenses was barred by the Statute of Limitations. *Held*, that the evidence was properly admitted. *State* v. *Williams*, 111 Atl. 701 (Vt.).

Courts will not receive evidence of offenses similar to the one with which the accused is charged for the purpose of disparaging the character of the accused. *State* v. *Lapage*, 57 N. H. 245; *Ware* v. *State*, 91 Ark. 555, 121 S. W. 927. But whenever the intent of an accused is an essential ingredient of the crime with which he is charged, the intent may be proved by evidence of the mere commission of such prior offenses, because such evidence warrants the inference that the continued commissions were not unintentional. *Regina* v. *Francis*, L. R. 2 C. C. R. 128; *Commonwealth* v. *Russell*, 156 Mass. 196, 30 N. E. 763. Intent may be proved also by showing that the accused had that intent in those prior offenses, wherefrom it may be inferred that the intent still existed in the present instance. *Crum* v. *State*, 148 Ind. 401, 47 N. E. 833; *Schultz* v. *United States*, 200 Fed. 234 (Cir. Ct. App., 8th Circ.). It is clear that the

probative value of such evidence is not affected by the liability or non-liability of the accused to punishment for his former acts. Moreover, the accused cannot complain, since he is punished only for the crime with which he is presently charged. Nor can he justly plead unfair surprise, because he must be aware that his intent is an issue upon which evidence well inevitably be introduced. It follows that the court is right in the principal case in denying any effect to the argument that punishment for the prior offenses is barred by the Statute of Limitations. *King* v. *Shellaker*, [1914] 1 K. B. 414; *Adams* v. *State*, 78 Ark. 16, 92 S. W. 1123. The result is supported by decisions admitting evidence of similar crimes committed in other states. *People* v. *Zucker*, 20 App. Div. 363, 46 N. Y. Supp. 766, aff'd, 154 N. Y. 770, 49 N. E. 1102; *State* v. *Place*, 5 Wash. 773, 32 Pac. 736.

EVIDENCE — REAL EVIDENCE — COMPARISON OF HANDWRITINGS. — A depositor sued his bank for having charged his account with the payment of certain checks alleged to have been forged. The trial court admitted certain checks of the depositor, proved to be genuine, for purposes of comparison by the jury with the alleged forgeries. *Held*, that this admission was error. *Texas State Bank of Ft. Worth* v. *Scott*, 225 S. W. 571 (Tex.).

Certain historical objections, now obsolete, and an unwillingness to raise collateral issues led to various restrictions at common law upon the admission of genuine writings for comparison by the jury or by expert witnesses. See 3 WIGMORE, EVIDENCE, §§ 2000–2002. The English common law, and that of many American jurisdictions, allowed comparison only with genuine writings already in evidence for other purposes. See *Doe* v. *Suckermore*, 5 A. & E. 703; *Moore* v. *U. S.*, 91 U. S. 270; *Griffen* v. *Woman's Home Ass'n*, 151 Ala. 597, 44 So. 605. More liberal courts let in any genuine writings appearing in the record. *Vinton* v. *Peck*, 14 Mich. 287; *Miss. Lumber Co.* v. *Kelly*, 19 S. D. 577, 104 N. W. 265. It is time to recognize the archaic nature of these restrictions and to discard them. The danger of raising collateral issues as to the genuineness of the standards introduced for comparison can be avoided by requiring the court to pass upon their genuineness before admission. Many jurisdictions, following the lead of England, by statute now allow comparison with any writings proved to the satisfaction of the judge to be genuine, See *Waggoner* v. *Clark*, 293 Ill. 256, 259, 127 N. E. 436, 437; *Plymouth Loan Assn.* v. *Kassing*, 125 N. E. 488, 490 (Ind. App.). And some jurisdictions, even in the absence of statutes, receive any admittedly genuine writings for purposes of comparison. *Moody* v. *Rowell*, 17 Pick. (Mass.) 490; *Paulk* v. *Creech*, 8 Ga. App. 738, 70 S. E. 145.

INSURANCE — DEFENSE OF INSURER — MURDER OF INSURED BY BENEFICIARY — RIGHTS OF NEXT OF KIN OF INSURED UNDER SURVIVORSHIP POLICY. — The deceased and her husband took out insurance with the defendant company payable to the survivor on the death of either. Deceased was murdered by her husband. Her administrator now sues for the insurance money. *Held*, that he cannot recover. *Spicer* v. *New York Life Insurance Co.*, 268 Fed. 500 (Circ. Ct. App., 5th Circ.).

It is well settled that a beneficiary who murders the insured cannot recover the insurance money. *New York Mutual Life Insurance Co.* v. *Armstrong*, 117 U. S. 591. See *Box* v. *Lanier*, 112 Tenn. 393, 79 S. W. 1042. It is regarded as being contrary to public policy to allow him to profit by his own criminal act. *Cf. Riggs* v. *Palmer*, 115 N. Y. 506, 22 N. E. 188. See GERMAN CIV. CODE, § 2339. But it does not follow that the company is no longer liable on the policy. In cases of mutual benefit insurance, it is agreed that the money must be paid to the person next entitled under the rules of the society. *Supreme Lodge* v. *Menkhausen*, 209 Ill. 277, 70 N. E. 567; *Schmidt* v. *Northern Life*